

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THOMAS L. HOLT and FEDERAL AVIATION ADMINISTRATION,
MIKE MONRONEY AERONAUTICAL CENTER, Oklahoma City, Okla.

*Docket No. 96-2116; Submitted on the Record;
Issued June 23, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for hearing loss.

On June 22, 1994 appellant, then a 52-year-old aircraft mechanic, filed a claim alleging that the exposure to noise while he was employed as an aircraft mechanic had caused a hearing loss. Appellant retired from the employing establishment in April 1994.

Records submitted to the Office included audiograms performed in 1978, 1981, 1982, 1983, 1989, 1992, 1993 and 1994, a description of all work-related exposure to hazardous noise, and a notice from the employing establishment that appellant wore a Bilsom head set, believed to be 23 decibels of hearing protection.

On November 21, 1994 an Office medical adviser noted that the most recent audiogram of August 26, 1993 showed mild, high tone hearing loss bilaterally. He stated that the hearing profile: (1) is probably mainly the result of presbycusis ("normal" aging); (2) was not ratable; and (3) showed some progression since earliest available audiogram of March 7, 1975, but probably from aging. The Office medical adviser concluded that although appellant apparently experienced potential exposure to hazardous noise during tenure of federal employment, available audiograms through August 1993 do not confirm evolution of a ratable, causally related high tone hearing loss.

The Office prepared a statement of accepted facts and referred it, together with the case record, to Dr. Harold W. Moss, a Board-certified otolaryngologist, for an otological examination, audiometric evaluation and his review and comment. Dr. Moss examined and evaluated appellant on January 25, 1995. The doctor reported findings and diagnosed possible bilateral mild sensorineural hearing loss. He noted, however, that the audiometric studies showed very inconsistent hearing results with varying baseline levels that were disproportionate to changes. Dr. Moss, therefore, recommended a repeat hearing test. Appellant underwent another

audiometric study on January 26, 1995. Based on the results of the January 26, 1995 audiometric study, Dr. Moss opined that hearing loss could not be determined and that he felt a significant functional component was involved. Dr. Moss also stated that there was a low frequency loss which was not associated with noise exposure and that no significant hearing loss was present.

In a March 15, 1995 report, an Office medical adviser reviewed Dr. Moss' report. He noted that appellant gave very inconsistent hearing results and that a functional component was strongly suspected. He also noted that appellant was tested on January 25, 1995 with unsatisfactory results and again on January 26, 1995. The Office medical adviser stated that the January 26, 1995 audiogram and the reported values on the Form CA-1332 show no hearing loss (air conduction normal). Also SRT normal bilaterally. He thus opined that there was no rateable hearing loss.

By decision dated April 12, 1995, the Office denied appellant's claim, finding that appellant's hearing loss was not causally related to noise exposure in his federal employment.

On May 11, 1995 appellant requested an oral hearing before an Office representative. At the hearing, appellant appeared and testified about his hearing difficulties. In addition to his testimony, appellant submitted a copy of an audiogram dated January 16, 1996 from a clinical audiologist.

By decision dated March 20, 1996, an Office hearing representative reviewed the evidence of record, including the newly submitted January 16, 1996 audiogram, and found that appellant did not sustain a hearing loss as a result of his federal employment. Accordingly, the April 12, 1995 decision was affirmed.

The Board finds that the Office properly denied appellant's claim for hearing loss.

The Office currently evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.¹ Before the degree of appellant's hearing loss can be evaluated, however, the Board has previously found that the Office's guidelines require that the Office "refer the claimant for audiological evaluation and otological evaluation addressing the relationship of any hearing loss to the employment and the degree of any permanent impairment."² Before a schedule award can be granted, the evidence of record must establish that there is a rateable hearing loss and that the hearing loss is causally related to appellant's federal employment.

¹ *George L. Cooper*, 40 ECAB 517 (1988). The decibel losses at the frequencies of 500, 1,000, 2,000 and 3,000 hertz are added up for each ear, averaged, and a "fence" of 25 decibels is deducted since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss. The binaural hearing loss is determined by calculating the loss in each ear using the formula for monaural loss. The lesser hearing loss is multiplied by five, then added to the greater hearing loss, and the total is divided by six to arrive at the amount of the binaural hearing loss. The Board has concurred in the Office's use of this standard for evaluating hearing loss claims for schedule award purposes.

² *Raymond H. Van Nett*, 44 ECAB 480 (1993).

In the present case, the Office denied appellant's claim by decision dated March 20, 1996, on the grounds that the medical evidence of record failed to establish that appellant had a hearing loss which was causally related to his federal employment. The Office initially referred appellant to Dr. Harold Moss, a Board-certified otolaryngologist. Dr. Moss examined appellant on January 25, 1995, noted that he could not obtain consistent testing results, and, based on the results of the second audiometric study conducted on January 26, 1995, opined that the low frequency loss was not associated with noise exposure and that appellant's condition appeared to be functional in nature. He additionally found that hearing loss could not be determined. The Office thereafter referred the case to an Office medical adviser who reviewed the evidence of record and agreed with the findings of Dr. Moss, which support the conclusion that appellant did not have a rateable hearing loss that was caused by his federal employment. As both Dr. Moss and the Office medical adviser provided reports which were based on a complete factual and medical background of appellant, were of reasonable medical certainty, and were supported by medical rationale explaining why appellant did not have a rateable hearing loss causally related to his federal employment, their reports are of great probative value.³

In support of his claim, appellant subsequently submitted an audiogram dated January 16, 1996 from an audiologist. This evidence is of no probative medical value because an audiologist is not a physician under the Act.⁴ The Board also notes that the Office has set forth specific requirements for medical evidence in hearing loss cases, which, as noted by the Office hearing representative, includes an examination by an otolaryngologist, an opinion as to the validity of the test results, and information pertaining to the calibration of the testing equipment.⁵ Accordingly, the Board finds that the January 16, 1996 audiogram is of no probative value and is insufficient to establish appellant's claim.

³ *Gary L. Fowler*, 45 ECAB 365 (1994).

⁴ *See Irwin J. Schumaker*, 39 ECAB 798 (1988); 5 U.S.C. § 8101(2).

⁵ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.8(a) (September 1994).

The decision of the Office of Workers' Compensation Programs dated March 20, 1996 is hereby affirmed.

Dated, Washington, D.C.
June 23, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member